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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	CR 3:24-CR-00152 WHO
)	
Plaintiff,)	UNITED STATES' RESPONSE TO ORDER
)	DIRECTING PARTIES TO CITE EXHIBITS (ECF
v.)	NO. 67)
)	
CSABA JOHN CSUKÁS,)	Pretrial: October 8, 2024 3:30 p.m.
)	Trial: October 25, 2024
Defendants.)	Court: Honorable William H. Orrick
)	

I. INTRODUCTION

The United States (the “government”) respectfully submits the following citations to exhibits referenced in the parties Motions *In Limine* and the Court’s recent Order. *See* ECF. No. 67.

Defendant is charged with committing a hate crime against Victim S.B. on October 26, 2023, at San Francisco International Airport (“SFO”). In its case-in-chief, the government must prove Defendant’s

willfulness in causing bodily injury to S.B. because of S.B.’s actual or perceived religion or national origin, specifically, that S.B. is Jewish and Israeli. One such method of proof in the issue of Defendant’s intent and state of mind includes publicly accessible social media posts from Defendant’s account on Reddit.com (“Reddit”) made prior to the offense.¹ The government asserts that these public posts on Defendant’s public profile are his statements or adopted admissions reflecting his views about Israelis and/or Jewish people and demonstrate his preoccupation with the conflict between Israel and Hamas, mostly during October 2023.²

In the government’s Motion *In Limine No. 1*, it seeks to admit, among other things, selected relevant Reddit posts from Defendant’s account prior to the offense. *See* ECF No. 51, p. 2.³ Defendant has opposed the government’s Motion *In Limine* and filed its own regarding these exhibits, arguing that the posts are not statements and are prejudicial and constitute improper character evidence, and alternatively that all of his posts should be admitted. *See* ECF No. 52, pp. 2-4; ECF No. 66, pp. 1-10. Defendant has also noticed selected tweets from the victim’s X (formerly Twitter) social media account, offering no argument to support their admission. *See* ECF No. 66, p. 10.

Discussed below, Defendant’s own statements and descriptions (including the June 11, 2022, book review and the October 15, 2023, YouTube video of a pro-Palestinian gathering) are not hearsay. With respect to Defendant’s “reposts” of other individuals’ articles and videos, although these posts are not hearsay because they are statements by a party-opponent under Rules 801(d)(2)(A) and (B),⁴ the government does not seek offer them to prove the truth of the matters stated therein, but rather for the

¹ Defendant continued to repost similar content in the months after the assault, including “Israeli Soldiers Celebrate Atrocities” and “Israeli TV Promotes Genocidal Song,” “What REALLY Happened On October 7?” and “Ex-Obama Adviser Charged With Hate Crime Over Food Cart Rant.”

² The government has noticed one post from prior to October 7, 2023, a self-published video of Defendant dated June 11, 2022 (Exhibit 72, discussed *infra*).

³³ These citations are to the page numbers found in the “footer” of the parties’ briefs.

⁴ *See Transbay Auto Service, Inc. v. Chevron USA, Inc.*, 807 F.3d 1113, 1119 (9th Cir. 2015) (“We and other courts have previously held that a party who relies on a third-party document by submitting the document to another—but after reviewing its contents—constitutes an adoptive admission”) (citing *Sea-Land Service, Inc. v. Lozen International, LLC*, 285 F.3d 808, 821 (9th Cir. 2002)). In *Transbay Auto Service*, the Ninth Circuit found that “whether the party personally reviewed the third-party content before submitting to another . . . this distinction has no import” if the party acts in conformity with the contents of a document. *Id.* at 1120. Here, Defendant took action by broadcasting the articles and their content to the public on his own personal page. *Id.* at 1119 (the surrounding circumstances must “tie the possessor and the document together in some way.”).

nonhearsay purposes of showing the statements’ effect on the listener (Defendant) and to demonstrate Defendant’s then-existing state of mind and bias at the time, which is relevant to his motivation in attacking S.B. days later. *See United States v. Payne*, 944 F.2d 1458, 1472 (9th Cir. 1991); *see Wagner v. County of Maricopa*, 747 F.3d 1048, 1052-1053 (9th Cir. 2013) (holding that “the bar [of Rule 803(3)] applies only when the statements are offered to prove the fact underlying the memory or belief”); *see also United States v. Brody*, 3:22-CR-168 WHO-1, 2023 WL 2541118 (Mar. 16, 2023) (denying defense motion to exclude evidence of statements “because they are probative of motive and intent” and excluding the evidence “prejudices the government by precluding it from effectively explaining its theory of motive and intent”).⁵

The government does not plan to offer in its case in chief in chief exhibits 73 or pages 2-145 of Exhibit 74, except where those posts appear in other exhibits.

II. EXHIBITS THE GOVERNMENT WILL OFFER AT TRIAL

Exhibit	Bates Nos.	Description and Content
71	US-001080-81	Defendant’s publicly accessible YouTube homepage. Defendant’s YouTube handle contains his full name. The profile photo is a picture of Defendant. The profile contains the following statement: “Opinions are my own.”
72	US-001490	An approximately 68-second video posted from Defendant’s YouTube social media account on October 15, 2023, titled “10k protestors marching on Market St in San Francisco, CA in solidarity with Gaza, Palestine.” The video is taken from the first-person perspective, and is cut at 57 seconds, and is annotated “San Francisco 10/14/2023” and depicts individuals marching in San Francisco. Defendant reposted “Israel’s changing narrative on hospital bombing Fact Check” to his Reddit account on October 19, 2023, at 1:18 p.m. <i>See</i> Exhibit 81.
74 p. 1	US-001333	Exhibit 74 is a printout of Defendant’s public Reddit site. The government only seeks to offer the first page, reflecting Defendant’s handle (@csabajohnsukas). The entirety of Defendant’s posts and reposts for the period October 7, 2023, to October 26, 2023, are located at pages 63-72. ⁶
75	US-001462	Exhibit 75 is a screenshot of the publicly accessible repost by Defendant on June 11, 2022, titled “Power Born of Dreams: My Story is Palestine Book Review.” Exhibit 76 ⁷ is the YouTube video embedded in Defendant’s Reddit post. The government plans to seek to admit Exhibit 76 starting :39 seconds in to 5:45 (runtime of 5:06). Defendant reviews a book by Mohammed Sabaane about growing up in Palestine. Defendant makes the
76	US-001510	

⁵ This Court went on to note that “‘other act’ evidence may be admitted without running afoul of FRE 404 ‘to explain . . . the events surrounding the commission of the crime . . . to contextualize its allegations that Brody was motivated to commit the intrusion and to rebut Brody’s defenses’”).

⁶ Reddit does not display the date of the posts on publicly-accessible pages, however, transaction information from materials received from Reddit, Inc., pursuant to a search warrant, reflect the dates and times of these posts.

⁷ Reddit does not display the date of the posts on publicly-accessible pages, however, transaction information from materials received from Reddit, Inc., pursuant to a search warrant, reflect the dates and times of these posts.

Exhibit	Bates Nos.	Description and Content
		following statements “daily survival that Palestinians have to face” in a “complete security police state.” He describes being Palestinian as “separate but unequal” and refers to Israeli citizens as “illegal Israeli settlers and the Israeli citizens post creation of Israel, the catastrophe – Palestinians call the ‘Nakba’ of 1948.” He continues by stating “Israel is perpetuating the apartheid regime and system upon the Palestinians” and describes “Jewish Israelis vs. Palestinian Muslims and Christians.” He states refers to Palestine as a “police state” twice in the video.
77	US-001401	Exhibit 77 contains several posts on Defendant’s account between October 13 and 15, 2023, three of which relate to Defendant’s state of mind with respect to hate crime motivation: <ul style="list-style-type: none"> • “Settler Rampage in West Bank” (posted October 13, 2023, at 12:31 p.m.): This post contains a link to a YouTube video. The government will not seek to play the video itself. • “Journalist disabled by Israel in 2008 continues to cover Israel attacks on Gaza” (posted October 15, 2023, at 12:04 p.m.): This post contains a link to a YouTube video. The government will not seek to play the video itself. • “Gaza: The World’s Largest Prison” (posted October 15, 2023, at 1:16 p.m.): This post contains a link to a YouTube video posted by @MondoWeissVideos.⁸ In this 50-second video, the narrator states “Gaza is the world’s largest prison, and Israel is the warden.” She states “every couple of years . . . Israel bombs them.” She states “even when ordinary Gazans tried to resist Israeli apartheid and occupation peacefully, they are shot and killed or maimed and disabled for life.” The government does not seek to admit this exhibit for the truth of the matters stated, but rather, to show Defendant’s then-existing state of mind and motive and intent.⁹
78	US-001496	
79	US-001400	Screenshot of the publicly accessible Reddit repost by Defendant on October 15, 2023, titled “How Western Leaders & Media Are Justifying Israel’s ‘Genocidal Campaign’ Against Palestinians.”
80	US-001499	Video of the YouTube post at Exhibit 79. Democracy Now! post embedded on Defendant’s Reddit Page. In the video, the host Amy Goodman states that many individuals fear a “second Nakba.” Another speaker, Noura Erakat, states discusses the “massacres” of Gazans and that Gaza is “an open air prison” and states that the “greatest crime” was the failure to “force Israel in order to dismantle this racist colonial structure that has basically condemned Palestinians to permanent subjugation. . . . there is blood on all of our hands.” Erakat states that Hamas, as a “nascent sovereign of the Palestinian people who has only targeted Israel. That gives them the right to use armed force, although that right is not . . . unqualified.” The government plans to show the speaker and to redact the other images (which includes footage of the aftermath of the Nova Music Festival). She states “we are all being primed to accept mass atrocities” and alludes to “genocide.” She states Israel “wants to shrink and concentrate the Palestinians.”
81	US-001490	See Exhibit 72.
82	US-001396	Three successive posts on Defendant’s Reddit account between October 24 and 25, 2023, in the 49 hours before the assault on S.B.: <ul style="list-style-type: none"> • On October 24, 2023, at 3:14 p.m., Defendant reposted “This is how Israel was created and how the widespread ethnic cleansing of Palestinians took place.” • The next post (October 25, 2023, at 11:31 a.m.), which the government seeks to display in its entirety (at Exhibit 83) is a link to a YouTube video titled “Pro-Israeli woman in London attacks people supporting Palestinians.” • One minute later, Defendant reposted an image titled “George Washington University tonight” depicting a building illuminated with a message stating “5000

⁸ @Mondoweiss also posted the “Settler Rampage in West Bank” video reposted by Defendant.

⁹ See *United States v. Blitz*, 151 F.3d 1002, 1007 (9th Cir 1998) (“motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident”) (citing Rule 404(b)).

Exhibit	Bates Nos.	Description and Content
		PALESTINIANS WERE MURDERED BY “ISRAEL” IN THE LAST TWO WEEKS.”
83	US-001511	39-second video, posted by “@tetworld” shows a woman apparently swear (the words are censored in the video) at a gathering of individuals and hit one during an apparent gathering individuals and refer to “stop it with [censored] Gaza you [censored].” The woman is then shown detained by three police officers.

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Respectfully submitted,

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/s/

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